

How the Independents voted

September 2013

The 43rd Parliament, in which the returned Labor government relied on a diverse crossbench to maintain confidence and supply and enact its agenda, confounded expectations with its legislative productivity. The Government passed 561 acts from government bills, up from just over 400 in the 42nd Parliament. These bills included significant pieces of legislative reform including the National Disability Insurance Scheme, the National Broadband Network, the National Plan for School Improvement and Carbon Pricing (see Part I: Significant Legislation introduced or passed by the House in the 43rd Parliament).

Over the length of the 43rd Parliament, there were 491 divisions. The Government maintained a successful record of gaining support from the Independents on significant pieces of legislation requiring a division. The Government won the majority in 93.5 per cent of divisions on substantive matters, and in 81 per cent of all divisions. There were some amendments to bills but ultimately no Government bill was defeated on the floor of the House of Representatives.

This voting record of the 43rd Parliament was ultimately a response to the Government's agenda. The Government committed that any Opposition legislation passed would be enacted. It was open to the Opposition at all times during the 43rd Parliament to bring forth a vote on their own legislation in the House of Representatives. However, Opposition legislation never proceeded to full debate.

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Part I: Significant Legislation introduced or passed by the House in the 43rd Parliament

The Clean Energy Future legislative package of 18 bills which established Carbon Pricing. For more information see the most recent Hawker Britton Occasional Paper on Carbon Pricing available [here](#).

[Minerals Resource Rent Tax Bill 2011](#)

[Australian Education Bill 2013](#), setting up the National Plan for School Improvement. For more information see the Hawker Britton Occasional paper on the plan available [here](#).

[National Disability Insurance Scheme Bill 2013](#). For more information see the Hawker Britton Occasional Paper on the scheme and its funding [here](#).

[National Broadband Network Companies Bill 2011](#) and the [Telecommunications Legislation Amendment \(National Broadband Network Measures—Access Arrangements\) Bill 2011](#). For more information see the Hawker Britton Occasional Paper on the NBN available [here](#).

[Aged Care \(Living Longer Living Better\) Bill 2013](#)

[Tobacco Plain Packaging Bill 2011](#)

Part II: Composition of the 43rd House of Representatives

There are 150 members of the House of Representatives. At the conclusion of the 43rd Parliament, the Australian Labor Party held 71 seats, the Coalition held 71 seats, and eight seats were held by Independents and members of minor parties.

They were:

- Mr. Adam Bandt (The Australian Greens Member for Melbourne)
- Mr. Tony Crook (The West Australian Nationals Member for O'Connor)
- Mr. Bob Katter (Katter's Australia Party Member for Kennedy)
- Mr. Rob Oakeshott (Independent Member for Lyne)
- The Hon. Peter Slipper (Independent for Fisher)
- Mr. Craig Thomson (Independent Member for Dobell)
- Mr. Andrew Wilkie (Independent Member for Denison)
- Mr. Tony Windsor (Independent Member for New England)

Adam Bandt, Rob Oakeshott and Tony Windsor each guaranteed supply and confidence in the Government. Craig Thomson was a former member of the Labor Party and indicated on becoming an Independent that he would similarly support the Government.

At various times, the Opposition threatened to move a motion of no confidence. However, they never did. Despite some expectation to the contrary, the Government maintained both confidence and supply right through the term of the Parliament.

Mr. Tony Crook MP (WA National)

On 5 May 2012, West Australian Nationals Member for O'Connor Tony Crook announced that he would be joining the federal Nationals parliamentary party room from Tuesday 8 May 2012. Mr. Crook previously sat on the crossbenches in order to advocate for the specific needs of West Australia. His election campaign platform centred on the fact that the West Australian Nationals were an independent party. In announcing his decision, Mr. Crook noted that he had been unable to successfully leverage his vote as a crossbencher. While sitting on the crossbenches, Mr. Crook voted against the Government in 88 per cent of divisions.

The Hon. Peter Slipper MP

At the 2010 Federal Election, the Hon. Peter Slipper MP was elected to the seat of Fisher as a member of the Liberal National Party. On 24 November 2011, Mr. Slipper became an Independent following his resignation from the Liberal National Party. On the same day he was elected as the Speaker of the House of Representatives following the resignation of Labor MP the Hon. Harry Jenkins from this position.

On 9 October 2012, Mr. Slipper resigned as Speaker. He had earlier stood aside from the position of Speaker on 22 April 2012 following allegations of a civil matter being made against him. He denied the civil allegations. Mr. Slipper continued to serve as the Independent Member for Fisher, and was entitled to vote in all divisions. Following his resignation as Speaker, Mr. Slipper voted as an Independent in the House for the first time. Mr. Slipper voted against the Government in 44 per cent of divisions and with the Government in 24 per cent of divisions. He was absent for the other 32 per cent of divisions.

Mr. Craig Thomson MP

On 29 April 2012, then Prime Minister Julia Gillard announced that she had indicated to the Member for Dobell, Mr. Craig Thomson MP that it was no longer appropriate for him to participate in Labor Caucus, and he should be suspended from the Labor Party. The announcement followed allegations of misuse of a union credit card while Mr. Thompson was National Secretary of the Health Services Union (HSU). Mr. Thompson denied the allegations. Mr. Thompson subsequently indicated that he had for his own reasons reached the same conclusion as the Prime Minister, and had announced to the ALP that he would join the crossbench as an independent, although he also indicated his continued support for the Labor Government. On becoming an Independent, Mr. Thompson voted with the Government in 83 per cent of divisions.

Mr. Andrew Wilkie MP

The Independent Member for Denison, Andrew Wilkie, initially guaranteed by written agreement supply and confidence in the Government. The agreement is available [here](#). However, on 21 January 2012 Mr. Wilkie announced that he would no longer guarantee supply and confidence in the Government. Mr. Wilkie's announcement came in response to Prime Minister Julia Gillard's announcement on Tackling Problem Gambling. Mr. Wilkie's statement is available [here](#). Mr. Wilkie voted with the Government in 73 per cent of divisions.

Mr. Adam Bandt MP

Mr. Bandt guaranteed supply and confidence in the Government through a written agreement between his party, the Australian Greens, and the Australian Labor Party. The agreement is available [here](#). Mr. Bandt voted with the Government in 84 per cent of divisions.

Independent MPs Oakeshott and Windsor

The Independent Member for Lyne, Mr. Rob Oakeshott MP, and the Independent Member for New England, Mr. Tony Windsor MP, together guaranteed supply and confidence in the Government through a written agreement with Prime Minister Julia Gillard. The agreement is available [here](#). Neither Mr. Oakeshott nor Mr. Windsor re-contested their seats at the 2013 Federal election. Mr. Oakeshott voted with the Government in 76 per cent of divisions. Mr. Windsor voted with the Government in 75 per cent of divisions.

Mr. Bob Katter MP

Independent member for Kennedy Mr. Bob Katter MP had no formal agreement with either the Government or the Opposition. Following the 2010 Federal Election, he formed a new political party, Katter's Australia Party. Mr. Katter voted against the Government in 35 per cent of divisions and voted with the Government in 28 per cent of divisions. He was absent for 42% of divisions.

Part III: Votes by the Speaker in the 43rd Parliament

Votes by the former Speaker, Mr. Harry Jenkins MP

Harry Jenkins served as Speaker of the House of Representatives in the 42nd Parliament. The Labor Party re-nominated Mr. Jenkins as Speaker in the 43rd Parliament, and he was elected unopposed when the Parliament opened on 28 September 2010.

On 18 November 2010, Mr. Jenkins used his casting vote to vote with the Noes against an Opposition amendment to the motion to suspend Standing Orders to bring on motions on broadband and mental health.

On 10 February 2011, Mr. Jenkins used his casting vote to vote with the Ayes in the second reading of the *Environment Protection and Biodiversity Conservation (Public Health and Safety) Amendment Bill 2010*.

On 15 June 2011, on the matter of the Opposition's motion to grant Mr. Dutton an extension of time, Mr. Jenkins used his casting vote to vote with the Noes.

On 25 August 2011, Mr. Jenkins used his casting vote to vote with the Noes against the Opposition motion to amend the Government's motion to suspend standing orders to consider *Private Members Business (Wild Dogs)* immediately.

Mr. Jenkins resigned as the Speaker of the House of Representatives on 24 November 2011. On 26 July 2012 he announced he would not contest the seat of Scullin at the 2013 Federal election.

Votes by the former Speaker, the Hon. Peter Slipper MP

The Hon. Peter Slipper served as Deputy Speaker following the 2010 election. Following the resignation of Mr. Jenkins as Speaker, Mr. Slipper was nominated unopposed and installed as Speaker on 24 November 2011. He resigned from the Liberal National Party on taking the Speaker's seat.

On 19 March 2012, on the matter of the Independent Member for Lyne Rob Oakeshott's motion for disallowance of the Renewable Energy (Electricity) Amendment Regulations 2011 (No. 5), as contained in the Select Legislative Instrument 2011 No. 222 and made under the *Renewable Energy (Electricity) Act 2000*, Mr. Slipper used his casting vote to vote with the Government and resolve the matter in the negative. In doing so, Mr. Slipper referenced two principles: that decisions should not be taken except by a majority; and that legislation should be left in its original form.

Votes by the former Speaker, Ms. Anna Burke MP

Ms. Anna Burke was elected as Speaker on 9 October 2012. On 1 November, Ms. Burke used her casting vote as Speaker for the first time, on the matter of the *Fair Work Amendment (Transfer of Business) Bill 2012* second reading debate. Ms. Burke voted with the Government and resolved the matter in the affirmative to allow further debate to continue on the bill.

Prior to her election as Speaker, Ms. Bourke was the Deputy Speaker acting as Speaker from 8 May 2012. While acting as Speaker, Ms. Burke used her casting vote seven times. On 24 May 2012, on the matter of the Opposition amendments to the *Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and other Measurers) Bill 2012*, Ms. Burke voted with the Government to resolve the matter in the negative. In doing so, she referenced the principle that a casting vote on an amendment should leave a bill in its existing form.

On 31 May 2012, on the matter of the Independent Member for Lyne Rob Oakeshott's motion *Migration Legislation Amendment (The Bali Process) Bill 2012 – Second Reading*, Ms. Burke voted with the Government to resolve the matter in the affirmative. In doing so, she referenced the principle that the casting vote should allow further consideration.

On 20 June 2012, on the matter of the Government motion to close debate on the *Passenger Movement Charge Amendment Bill 2012*, Ms. Burke voted with the Opposition to resolve the matter in the negative, referencing the principle that the casting vote should allow further consideration on a matter.

On 21 June 2012, on the matter of the Opposition's amendments to the *Social Security Amendment (Supporting Australian Victims of Terrorism Overseas) Bill 2011*, Ms. Burke voted with the Government to resolve the matter in the negative, leaving the bill in its existing form.

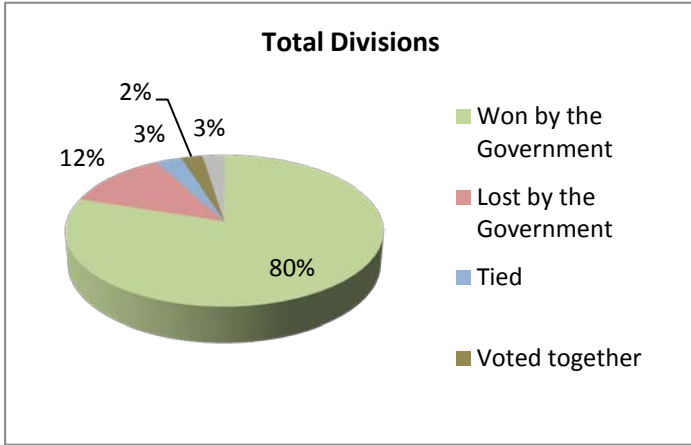
On 16 August 2012, Ms. Burke used her casting vote twice, the first time on an Opposition motion regarding the Accountability and Transparency of Unions, and the second time on an Opposition motion regarding the Small-Scale Renewable Energy Scheme. In both cases she voted with the Noes, based on the principle that decisions should not be taken except by a majority.

On 17 September 2012, Ms. Burke used her casting vote to vote with the Noes on the matter of the Opposition motion for disallowance of the Road User Charge Determination (No. 1) 2012, stating that she did so in accordance with precedents for retaining a proposition in its original state.

On 1 November 2012, Ms. Bourke used her casting vote to vote with the Government to progress the *Fair Work Amendment (Transfer of Business) Bill 2012* to the second reading.

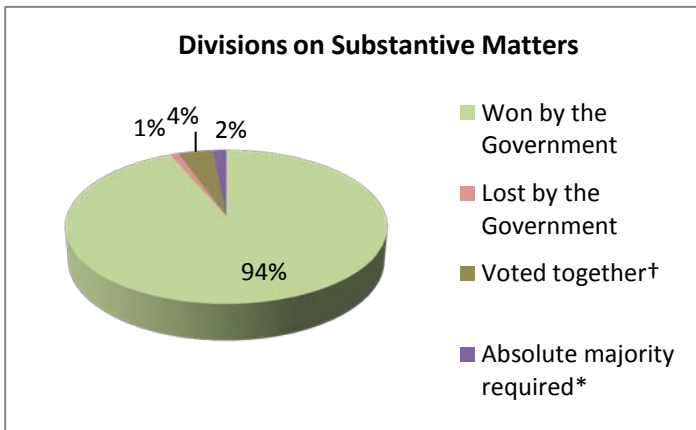
Ms. Bourke used her casting vote twice in 2013 to vote with the Noes. On 14 March 2013 Ms. Bourke voted against the Opposition Amendment to the *National Disability Scheme Bill 2012* and on 6 June 2013 voted against Opposition amendments (1) to (3) to the *Fair Work Amendment Bill 2013*.

Part IV: How the Independents voted in the House



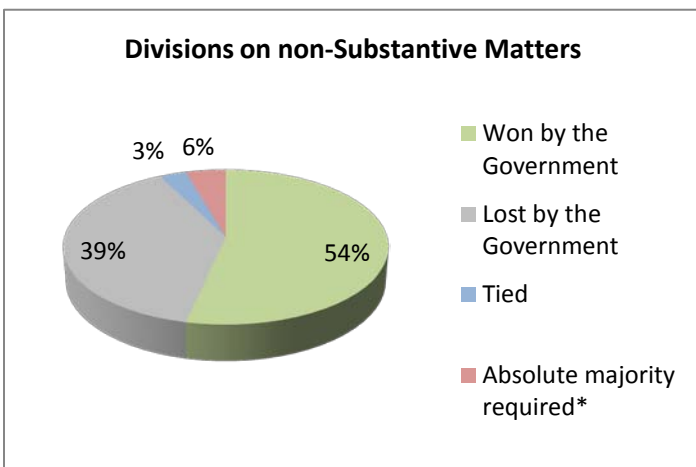
Total Number of Divisions

| | | |
|-----------------------------|------|-----|
| Won by the Government | 80% | 393 |
| Lost by the Government | 12% | 59 |
| Tied | 3% | 14 |
| Voted together | 2.5% | 13 |
| Absolute majority required* | 2.5% | 12 |
| | 100% | 491 |



Number of Substantive Divisions†

| | | |
|-----------------------------|-------|-----|
| Won by the Government | 93.5% | 320 |
| Lost by the Government | 1% | 3 |
| Voted together† | 4% | 13 |
| Absolute majority required* | 2% | 6 |
| | 100% | 342 |



Number of Non-Substantive Divisions

| | | |
|-----------------------------|-------|-----|
| Won by the Government | 53.5% | 80 |
| Lost by the Government | 39% | 58 |
| Tied | 3% | 4 |
| Absolute majority required* | 4.5% | 7 |
| | 100% | 149 |

